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IN THE TEXAS COURT OF CRIMINAL APPEALS

FILED  
COURT OF CRIMINAL APPEALS  
7/11/2018  
DEANA WILLIAMSON, CLERK

AT AUSTIN, TEXAS

\*\*\*\*\*

EX PARTE BRANDON JOSEPH ADAMS

\*\*\*\*\*

On Appeal from the Court of Appeals  
Eleventh Judicial District, Eastland, Texas  
Cause Number 11-17-00332-CR  
42nd District Court of Taylor County, Texas  
Honorable James Eidson, Judge Presiding  
Trial Court Cause Number 26,815-A

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**STATE'S FIRST MOTION FOR EXTENSION OF TIME  
TO FILE PETITION FOR DISCRETIONARY REVIEW**

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TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State of Texas, by and through its Assistant District Attorney, moves the Court for an extension of time to file its Petition for Discretionary Review in the above-entitled and numbered cause, and shows:

I. Statement of the Case

Appellant was indicted on two charges of aggravated assault with a deadly weapon for allegedly stabbing Joe Jeremy Romero in

cause number 26,815-A and Justin Paul Romero in cause number 26,816-A, both alleged to have occurred on the same date. Appellant proceeded to trial in cause number 26,816-A. The evidence in that case showed that Justin Paul Romero was engaged in a fight with appellant's friend Luke Hisey at the time of the stabbing. Appellant's jury charge contained an instruction on deadly force in defense of a third person pursuant to Tex. Penal Code § 9.33 (West 2017). Appellant was acquitted. Appellant filed a pretrial application for writ of habeas corpus, arguing that his acquittal in cause number 26,816-A bars his prosecution in cause number 26,815-A, specifically the collateral estoppel doctrine and the Double Jeopardy Clause. The trial court denied relief.

On June 14, 2018, the Eastland Court of Appeals reversed the trial court's decision and rendered a judgment of acquittal. No motion for rehearing was filed. The State's Petition for Discretionary Review is due in this court on July 16, 2018. This is the State's first motion for extension.

## II. Cases Recently Filed and Argued

Counsel had two briefs due on July 9, 2018, both accelerated appeals and both previously granted one extension; *In the Interest of M.W., a Child*, 11-18-00120-CV was timely filed on July 2, 2018, and *In the Interest of A.W. and A.W., Children*, 11-18-00120-CV was timely filed on July 9, 2018. Counsel had a brief due on July 6, 2018, which was timely filed on June 19, 2018, in the case of *Johnny Allen Winfield v. State of Texas*, 11-18-00042-CR, previously granted two extensions. Counsel had a brief due in the Seventh Court of Appeals on June 18, 2018 in *Wayne East v. State of Texas*, 11-17-00156-CR; timely filed on June 13, 2018. This brief had been granted one previous extension. Counsel had a brief on the merits due on June 4, 2018 in the Texas Court of Criminal Appeals in *Cody Darus French v. State of Texas*, PD-0038-18, timely filed on June 1, 2018; this brief had been granted a previous extension. Counsel had a brief due and timely filed on May 25, 2015 in *Amber Renee Craker v. State of Texas*, 11-17-00299-CR. This is an appeal of a conviction for the capital murder of an infant with a 10 volume reporter's record and extensive medical examiner testimony; the State's brief was of considerable length and the review, research and drafting

took a considerable amount of time, which necessitated extensions in other cases.

### III. Briefs and Oral Arguments Pending

Counsel has a brief pending in *Valerie Renee Barerra v. State of Texas*, 11-18-00035-CR, due on July 16, 2018 and previously granted one extension, and in *John Louis Atkins v. State of Texas*, 11-18-00056-CR currently due on August 2, 2018. Counsel expects to have a reply brief due in the near future in the Court of Criminal Appeals pending the filing of Appellant's responsive brief on the merits currently due July 17, 2018 in *Cody Darus French v. State of Texas*, PD-0038-18.

### IV. Personal

Counsel for the State was out of the office for most of the week of July 2-6, 2018.

### V. Prayer

The State requests a 30 day extension. This request for extension of time is not made solely for the purpose of delay, but so that justice may be served.

Respectfully submitted,

James Hicks  
Criminal District Attorney  
Taylor County, Texas  
300 Oak Street, Suite 300  
Abilene, Texas 79602  
325-674-1261  
325-674-1306 FAX

BY: /s/ Britt Lindsey  
Britt Lindsey  
Assistant Criminal District Attorney  
Appellate Section  
300 Oak Street, Suite 300  
Abilene, Texas 79602  
325-674-1376  
325-674-1306 FAX  
lindseyb@taylorcountytexas.org  
State Bar No. 24039669  
Attorney for the State

### **CERTIFICATE OF COMPLIANCE**

I, Britt Lindsey, affirm that the above motion is in compliance with the Rules of Appellate Procedure. The font size in the body of the motion is 14 pt. The word count is 861 including the entire motion.

/s/ Britt Lindsey  
Britt Lindsey

### **CERTIFICATE OF SERVICE**

I certify that on this 11<sup>th</sup> day of July, 2018, a true copy of the foregoing State's First Motion for Extension of Time was served on attorney for Appellant according to the requirements of law by email or efilings to:

Kevin W. Willhelm  
Willhelm Law Firm  
P.O. Box 3536  
Abilene, Texas 79604

Attorney for appellant, Brandon Joseph Adams;

Stacey M. Soule  
State Prosecuting Attorney  
P.O. Box 12405  
Austin, Texas 78711  
Email: [information@spa.texas.gov](mailto:information@spa.texas.gov)

State Prosecuting Attorney's Office.

/s/ Britt Lindsey  
Britt Lindsey